



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

CHARLES LOMAX, §
Petitioner, §
§
vs. § CIVIL ACTION NO. 8:05-3034-HFF-BHH
§
STATE OF SOUTH CAROLINA and §
ATTORNEY GENERAL OF THE STATE OF §
SOUTH CAROLINA, §
Respondents. §

AMENDED ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE, GRANTING RESPONDENTS' MOTION FOR SUMMARY
JUDGMENT AND DISMISSING THE PETITION WITH PREJUDICE

This case was filed as a Section 2254 action. Petitioner is proceeding *pro se*. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Respondents' Motion for Summary Judgment be granted and the petition be dismissed with prejudice. The Report is made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on August 4, 2006, and the Clerk entered Petitioner's objections on August 25, 2006. The Court has now carefully considered Petitioner's eleven-page objection memorandum but finds the objections contained therein to be without merit. Therefore, for the reasons set forth in the Magistrate Judge's comprehensive and well-reasoned Report, the Court will grant Respondents' Motion for Summary Judgment.

After a thorough review of the Report and the record in this case, the Court overrules Petitioner's objections, adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that Respondents' Motion for Summary Judgment must be **GRANTED** and the petition must be **DISMISSED** with prejudice.

IT IS SO ORDERED.

Signed this 28th day of August, 2006, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to the Federal Rules of Appellate Procedure.